

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI**

JORDAN SKOUBY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 4:21-CV-01059
	)	
MERCY CLINICS EAST	)	
COMMUNITIES,	)	
	)	
and	)	
	)	
JOHN DOE ENTITY,	)	
	)	
Defendants.	)	

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, Defendant Mercy Clinic East Communities (“Defendant” or “Mercy”) hereby gives notice of the removal of the above-styled action to this Court from the Circuit Court of St. Louis County, State of Missouri. In support of its Notice of Removal, Defendant states as follows:

1. The action styled *Jordan Skouby v. Mercy Clinic East Communities, et al.*, Case No. 21SL-CC03199, was filed in the Circuit Court of St. Louis County, State of Missouri, on or about July 16, 2021 (the “Petition”).

2. Defendant Mercy Clinic East Communities was served with a summons and a copy of Plaintiff’s Petition for Damages on July 28, 2021 (hereinafter the “Complaint”).

3. Defendant John Doe Entity has not been served. “It is well-recognized that obtaining the consent of an unserved defendant is not required to effectuate removal to federal court.” *Ford v. Associated Elec. Coop., Inc.*, 2017 WL 5903969, at \*2 (E.D. Mo. Nov. 30, 2017). Plaintiff did not request any summons against Defendant “John Doe Entity.” In the caption of

Plaintiff's Petition, Plaintiff wrote "HOLD SERVICE" by that defendant's name. Since Defendant John Doe Entity has not been served, its consent to remove this action is not required. *Id.*

4. This Notice of Removal is timely because it is filed within the thirty-day period prescribed by 28 U.S.C. § 1446(b).

5. Venue of this civil action is proper in this Court pursuant to 28 U.S.C. §§ 1391, 1441(a) because Plaintiff filed her Petition in the Circuit Court of St. Louis County, Missouri, which is located in the Eastern District's jurisdiction.

6. The state court action is removable because this Court has jurisdiction based on federal question.

#### **FEDERAL QUESTION JURISDICTION**

7. Plaintiff's Complaint seeks relief under the Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621, *et seq.* ("ADEA"). Plaintiff alleges that Defendant discriminated and retaliated against Plaintiff in violation of the ADEA.

8. Under 28 U.S.C. § 1441(a), claims or causes of action presented in state court proceedings where the district courts of the United States have original jurisdiction founded on a claim or right arising under the Constitution, treaties, or laws of the United States are removable without regard to the citizenship of the parties.

9. Plaintiff's Complaint asserts a claim arising under federal law, i.e., the ADEA. Accordingly, this Court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 and removal of this action is authorized by 28 U.S.C. § 1441. *See Biswas v. Sasak Corp.*, 2016 WL 278869 (E.D. Mo. Jan. 22, 2016) (ADEA claims may be removed to federal court).

### **CONCLUSION**

10. Defendant properly removes this case to federal court pursuant to 28 U.S.C. § 1331 because Plaintiff's Complaint asserts claims arising under federal law.

11. Pursuant to 28 U.S.C. § 1446(d), Defendant has given written notice of its filing of this Notice to Plaintiff. Defendant will also promptly file a copy of this Notice with the Circuit Court of St. Louis County, State of Missouri.

12. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served on Defendant is attached to this Notice as Exhibit A.

WHEREFORE, Defendant Mercy Clinic East Communities, by and through its counsel, desiring to remove this civil action of the United States District Court for the Eastern District of Missouri, Eastern Division, prays that the filing of this Complaint and for Notice of Removal, the giving of written notice thereof to Plaintiff, and the filing of a copy of this Complaint for the Notice of Removal with the clerk of the Circuit Court of St. Louis County, State of Missouri, shall effect the removal of said civil action to this Honorable Court.

Respectfully submitted,

**OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.**

/s/ Andrew L. Metcalf

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**ATTORNEYS FOR MERCY CLINICS EAST  
COMMUNITIES**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on August 25, 2021, I electronically filed the above and foregoing document using the Court's e-filing system, which sent notification to the following, and sent a copy via U.S. Mail, to:

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